

Statutory Licensing Sub-Committee

22nd May 2018

Application for the Review of a Premises Licence



Report of Ian Thompson, Corporate Director, Regeneration and Local Services

Name and address of premises: Missoula, Unit 7, Freemans Place,
Walkergate, Durham DH1 1SQ

1. Summary

The Sub-Committee is asked to consider and determine an application by Mr Michael Barton, The Chief Constable of Durham – Durham Constabulary to review the premises licence in respect of Missoula. The premises currently hold a licence, which authorises the following activities:

Licensable Activity	Timings
Films (indoors)	Monday to Sunday 07.00 – 02.00 Additional hour for BST and all Bank Holiday Sundays
Live Music (indoors)	Monday to Sunday 09.00 – 02.00 Additional hour for BST and all Bank Holiday Sundays
Recorded music (indoors)	Monday to Sunday 09.00 – 02.00 Additional hour for BST and all Bank Holiday Sundays
Performance of Dance (indoors)	Monday to Sunday 09.00 – 02.00 Additional hour for BST and all Bank Holiday Sundays
Other entertainment similar to live, recorded music or dancing (indoors)	Monday to Sunday 09.00 – 02.00 Additional hour for BST and all Bank Holiday Sundays

Late night refreshment (indoors)	Monday to Sunday 23.00 – 02.30 Additional hour for BST and all Bank Holiday Sundays
Sale of Alcohol (On and off sales)	Monday to Sunday 09.00 – 02.00 hrs Additional hour for BST and all Bank Holiday Sundays
Opening Hours	Monday to Sunday 07.00 – 02.30 hrs Additional hour for BST and all Bank Holiday Sundays

A copy of the current premises licence is attached at Appendix 1.

A plan showing the location of the premises is attached at Appendix 2.

2. Details of the Application

On 28th March 2018, the Licensing Authority received an application from The Chief Constable of Durham – Durham Constabulary (Responsible Authority) for a review of the premises licence (Licence Number LAPRE/11/0234).

The premises licence holder is Stonegate Pub Company Limited and the Designated Premises Supervisor is Mr Stephen Rucastle.

The application is deemed by the Licensing Authority to be relevant.

This application for a review relates to the following licensing objectives:

- The Prevention of Crime and Disorder
- Public Safety

A copy of the application for the review of the premises licence is attached at Appendix 3.

The application for review was advertised in accordance with the regulations.

3. Representations

The licensing authority received three representations in support of the review application, from other persons during the statutory consultation period. These are:

- Councillor David Freeman
- St Nicholas' Community Forum
- Roberta Blackman-Woods MP

Copies of the representations are attached at Appendix 4.

4. The Parties

The Parties to the hearing will be:

- Representative on behalf of the Chief Officer of Police – Durham Constabulary (applicant)
- Mr Nick Rippon on behalf of Roberta Blackman-Woods MP (other person)
- Councillor David Freeman (other person)
- Representative from St Nicholas' Community Forum (other person)

On behalf of the Licence Holder:

1. Philip Kolvin, QC, Cornerstone Barristers – Representing Stonegate Pub Co Ltd;
2. Graeme Cushion, Solicitor, Poppleston Allen – Representing Stonegate Pub Co Ltd;

3. Company Representatives

- i. Helen Charlesworth, Managing Director;
- ii. Rob Hawkesworth, Head of Risk Management;
- iii. Stephen Rucastle, Designated Premises Supervisor, Missoula, Durham;

4. Possible Additional Company Representatives

- i. Graham Jones, Director of Operational Support;
- ii. Paul Wright, Operations Director of Missoula, Durham.

5. Durham County Council Statement of Licensing Policy

The Sub-Committee's attention is drawn to the following relevant parts of the Policy:

- 7.0 The Prevention of Crime and Disorder
- 8.0 Public Safety
- 22.0 Reviews

Relevant information is attached at Appendix 5.

6. Section 182 Guidance

The Sub-Committee's attention is drawn to the relevant parts of the Guidance issued under section 182 of the Licensing Act 2003 as follows:

- 2.1 – 2.6 Crime and Disorder
- 2.7 – 2.14 Public Safety
- 11.1 – 11.30 Reviews

Relevant information is attached at Appendix 6.

7. For Decision

The Sub-Committee is asked to determine the application for the review of the premises licence and to take any of the following steps that it considers necessary for the promotion of the licensing objectives:

- Take no further action
- Modify or add conditions to the licence
- Exclude a licensable activity from the licence
- Remove the Designated Premises Supervisor
- Suspend the licence for a period (not exceeding three months)
- Revoke the licence

8. Background Papers

- Durham County Council's Statement of Licensing Policy
- Guidance issued under section 182 of the Licensing Act 2003 (As amended April 2017)

Contact: Helen Johnson

Tel: 03000 265101

E-mail: helen.johnson2@durham.gov.uk

APPENDIX 1 – PREMISES LICENCE

LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number

Granted

Issued

LAPRE/11/0234
24 November 2005
06 June 2016

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
MISSOULA UNIT 7 FREEMANS PLACE WALKERGATE DURHAM CITY DH1 1SQ	DURHAM COUNTY COUNCIL ADULT AND HEALTH SERVICES LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
Telephone number: 0191 3843564	

Where the licence is time limited the dates

N/A

Licensable activities authorised by this licence

Films
 Live Music
 Recorded Music
 Performance of Dance
 Other Entertainment Similar to Live or Rec Music or Dance Performance
 Late Night Refreshment
 Sale by retail of alcohol

Opening Hours of the Premises

Day	Opening Hours	Non-standard/seasonal timings
Mon	07:00-02:30	An additional hour to the standard and non-standard times on the day when British Summertime commences. New years Eve - from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day. One additional hour on ALL Bank Holiday Sundays
Tue	07:00-02:30	
Wed	07:00-02:30	
Thu	07:00-02:30	
Fri	07:00-02:30	
Sat	07:00-02:30	
Sun	07:00-02:30	

Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales:
ON AND OFF ALCOHOL SALES

The times the licence authorises the carrying out of licensable activities (all in 24hr format)

<p>Films Indoors</p> <p>Mon 07:00-02:00 Tue 07:00-02:00 Wed 07:00-02:00 Thu 07:00-02:00 Fri 07:00-02:00 Sat 07:00-02:00 Sun 07:00-02:00</p>	<p>Further details</p> <p>N/A</p> <p>Non-standard/seasonal timings</p> <p>An additional hour to the standard and non-standard times on the day when British Summertime commences.</p> <p>New years Eve - from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.</p> <p>One additional hour on ALL Bank Holiday Sundays</p>
<p>Live Music Indoors</p> <p>Mon 09:00-02:00 Tue 09:00-02:00 Wed 09:00-02:00 Thu 09:00-02:00 Fri 09:00-02:00 Sat 09:00-02:00 Sun 09:00-02:00</p>	<p>Further details</p> <p>N/A</p> <p>Non-standard/seasonal timings</p> <p>An additional hour to the standard and non-standard times on the day when British Summertime commences.</p> <p>New years Eve - from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.</p> <p>One additional hour on ALL Bank Holiday Sundays</p>
<p>Recorded Music Indoors</p> <p>Mon 09:00-02:00 Tue 09:00-02:00 Wed 09:00-02:00 Thu 09:00-02:00 Fri 09:00-02:00 Sat 09:00-02:00 Sun 09:00-02:00</p>	<p>Further details</p> <p>N/A</p> <p>Non-standard/seasonal timings</p> <p>An additional hour to the standard and non-standard times on the day when British Summertime commences.</p> <p>New years Eve - from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.</p> <p>One additional hour on ALL Bank Holiday Sundays</p>
<p>Performance of Dance Indoors</p> <p>Mon 09:00-02:00 Tue 09:00-02:00 Wed 09:00-02:00 Thu 09:00-02:00 Fri 09:00-02:00 Sat 09:00-02:00 Sun 09:00-02:00</p>	<p>Further details</p> <p>N/A</p> <p>Non-standard/seasonal timings</p> <p>An additional hour to the standard and non-standard times on the day when British Summertime commences.</p> <p>New years Eve - from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.</p> <p>One additional hour on ALL Bank Holiday Sundays</p>
<p>Other Entertainment Similar to Live or Rec Music or Dance Performance Indoors</p> <p>Mon 09:00-02:00 Tue 09:00-02:00 Wed 09:00-02:00 Thu 09:00-02:00 Fri 09:00-02:00 Sat 09:00-02:00 Sun 09:00-02:00</p>	<p>Further details</p> <p>N/A</p> <p>Non-standard/seasonal timings</p> <p>An additional hour to the standard and non-standard times on the day when British Summertime commences.</p> <p>New years Eve - from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.</p> <p>One additional hour on ALL Bank Holiday Sundays</p>

Late Night Refreshment Indoors Mon 23:00-02:30 Tue 23:00-02:30 Wed 23:00-02:30 Thu 23:00-02:30 Fri 23:00-02:30 Sat 23:00-02:30 Sun 23:00-02:30	Further details N/A Non-standard/seasonal timings An additional hour to the standard and non-standard times on the day when British Summertime commences. New years Eve - from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day. One additional hour on ALL Bank Holiday Sundays
Sale by retail of alcohol Mon 09:00-02:00 Tue 09:00-02:00 Wed 09:00-02:00 Thu 09:00-02:00 Fri 09:00-02:00 Sat 09:00-02:00 Sun 09:00-02:00	Further details Non-standard/seasonal timings An additional hour to the standard and non-standard times on the day when British Summertime commences. New years Eve - from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day. One additional hour on ALL Bank Holiday Sundays

Part 2

Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence	
STONEGATE PUB COMPANY LIMITED PORTER TUN HOUSE 500 CAPABILITY GREEN LUTON BEDFORDSHIRE LU1 3LS	
Registered number of holder, for example company number, charity number (where applicable)	
Company no:	FC029833
Charity no:	N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol
MR STEPHEN RUCASSTLE

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the sale by retail of alcohol

Annex 1 – Mandatory conditions

No supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or his or her licence has been suspended. Every supply of alcohol under this premises licence must be made or authorised by a person who holds a personal licence.

The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol -

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either-

(a) a holographic mark, or

(b) an ultraviolet feature.

The responsible person must ensure that -

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Price of Alcohol:

1 A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2 For the purposes of the condition:

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula –

$$P = D + (D \times V)$$

Where –

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3 Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4 (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Mandatory condition: door supervision

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.

2. But nothing in subsection (1) requires such a condition to be imposed-

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or

(b) in respect of premises in relation to-

- (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
- (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

3. For the purposes of this section-
- (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Mandatory condition: exhibition of films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where-
 - (a) the film classification body is not specified in the licence, or
 - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section-
 - "children" means persons aged under 18; and
 - "film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Annex 2 – Conditions consistent with the premises Operating Schedule

General

None

Prevention of Crime & Disorder

Only SIA registered door supervisors will be employed at the premises and a log will be kept by the designated premises supervisor to record personal information of the person so employed and any incident that occurs during the period of duty.
Such register shall be kept for 3 months and available for inspection by authorised officer of the Council or police officer.

Door supervisors will not be permitted to consume alcohol whilst on duty.

The designated premises supervisor shall play an active role in Pub watch and follow its code of conduct. The designated premises supervisor will have responsibility to ensure all staff is aware of the conditions of the premises licence and suitably trained in both the law and practical aspects of operating licensed premises.

CCTV will be installed internally and to the front of the premises and maintained in good working order, this will be done in conjunction Durham Police and tapes will be retained for 31 days.

Public Safety

Sound equipment will be connected to the fire alarm system so if the alarm is sounded the music is terminated but the public address system still operated.

Free drinking water provided at all times.

Counting devices will be used to control and record the numbers, which will be available for inspection, by the relevant authorities.

Prevention of Public Nuisance

Noise limiter to be installed and set by the environmental health officer.
During the last half hour music and lighting will be changed to provide a calm period before customers leave.

Toilets will be available to customers throughout opening hours. The control to the automatic doors will be turned to manual at 20:00 hours.

No bottles will be deposited in the waste bins between 23:00 hours and 07:00 hours.

Protection of Children from Harm

Only a passport or driving licence or nationality recognised ID card will be accepted as proof of a person's age and advice will be taken from Police on proof of age scheme.

There will be no adult entertainment of any kind.

Any person under the age of 16 will must be accompanied by an adult and whilst on the premises the premises supervised by that adult.

Annex 3 – Conditions attached after a hearing by the licensing authority

None

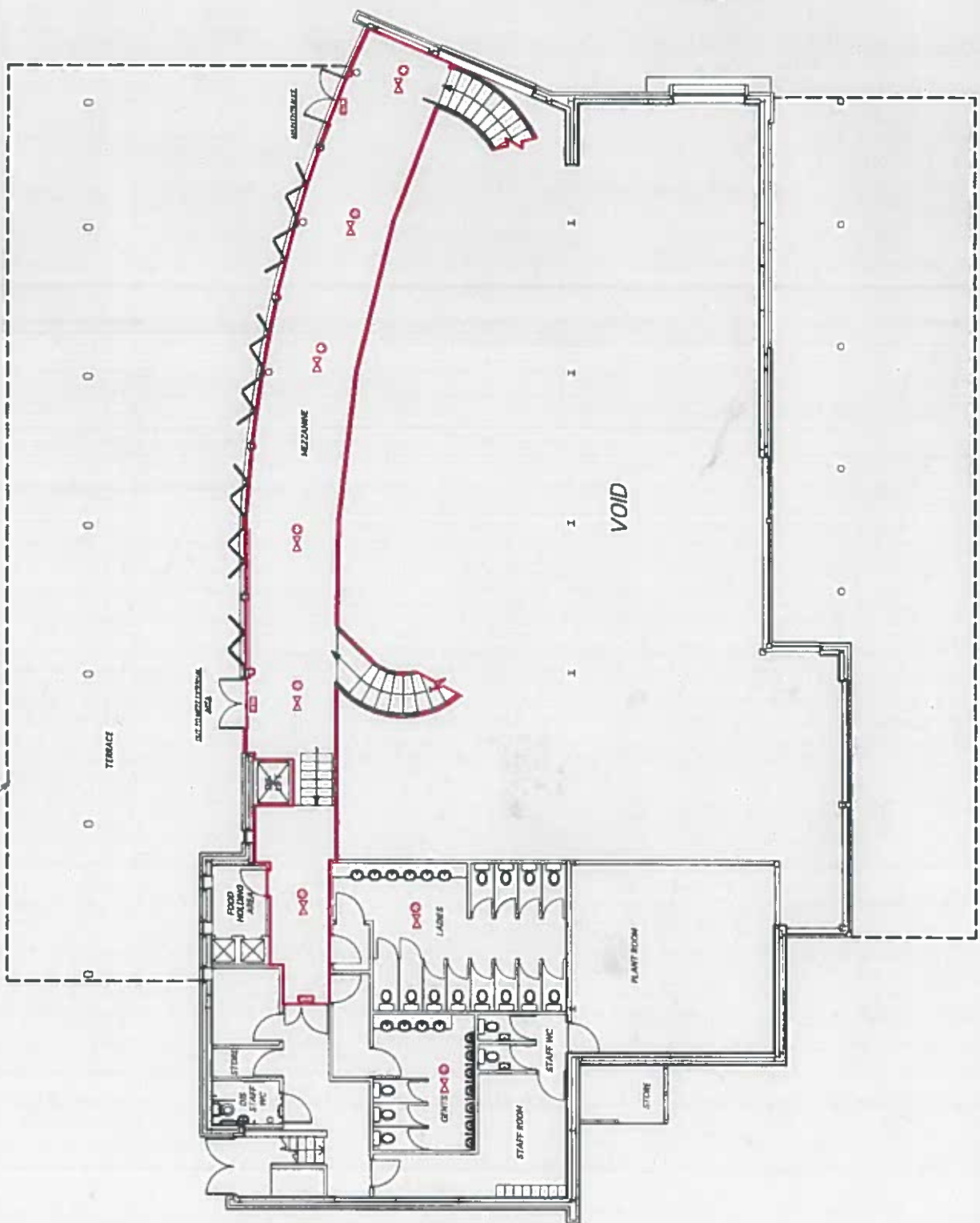
Annex 4 – Plans attached

Attached



Signature of Authorised Officer
Head of Environment, Health and Consumer Protection

EXTENT OF EXTERNAL DRAINAGE AREA
SCHEDULE 12 (17)10



LICENSING KEY:



PROPOSED LICENSED
AREA DENOTED
BY RED OUTLINE

ANYTHING SHOWN ON THIS PLAN WHICH IS
NOT PERMITTED BY THE PLANNING REGULATIONS
IS TO BE CONSIDERED AS A 'PROPOSED' AND
SHOULD BE MADE PART OF THE
LICENSING.

THE LOCATIONS TYPE OF ANY FIRE SAFETY AND ANY OTHER SAFETY
EQUIPMENT WILL REMAIN AS EXISTING UNLESS
THIS MAY BE VARYED FROM TIME TO TIME WITH THE AGREEMENT
OF THE FIRE OFFICER ON AFTER FIRE RISK ASSESSMENT.

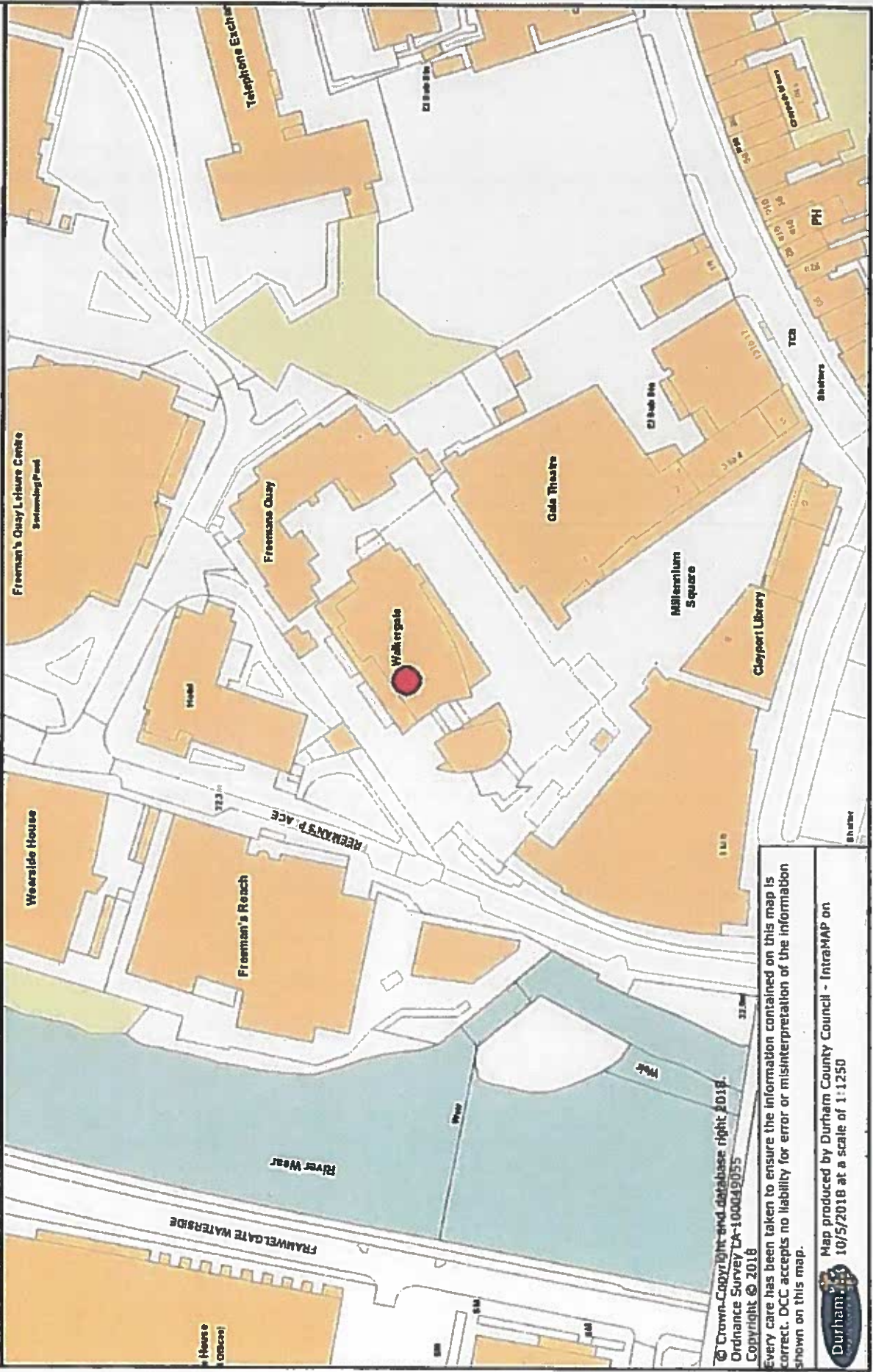
KEY SYMBOLS	
○	SMOKE DETECTOR
○	HEAT DETECTOR
□	FIRE ALARM INITIATOR POINT
□	EMERGENCY EXIT LIGHTS
□	EMERGENCY EXIT LIGHTS
□	FIRE ALARM
□	SMOKE SENSITIVE DETECTOR
□	CO2 DETECTOR
□	SMOKE FLOW DETECTOR
□	FIRE ALARM INDICATOR (CIRCUITRY)
□	EMERGENCY EXIT LIGHTS

**PROPOSED FIRST FLOOR
LAYOUT 1:100 @ A1**

APPENDIX 2 – PLAN

Plan for identification purposes only; not to be used for scaling or formal documentation

Durham County Council - IntraMAP



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Ordnance Survey EA100049055
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Every care has been taken to ensure the information contained on this map is correct. DCC accepts no liability for error or misinterpretation of the information shown on this map.

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10/5/2018 at a scale of 1:1250



APPENDIX 3 – REVIEW APPLICATION

Durham County Council licensing authority

**Application for the review of a premises licence or club premises certificate under the
Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure
that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
You may wish to keep a copy of the completed form for your records.

I Michael Barton, Chief Constable of Durham

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the
premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description "Missoula", Unit 7, Freemans Place, Walkergate.	
Post town Durham	Post code (if known) DH1 1SQ

Name of premises licence holder or club holding club premises certificate (if known) Stonegate Pub Company Limited
--

Number of premises licence or club premises certificate (if known) LAPRE/11/0234
--

Part 2 - Applicant details

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible
authority (please read guidance note 1, and complete (A)
or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates
(please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Mr. M. Barton, Chief Constable, Durham Constabulary, Aykley Heads, Durham. DH1 5TT
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

-
-
-
-

Please state the ground(s) for review (please read guidance note 2)

1. This application for the review of the premises licence for “Missoula”, Durham is brought with a view to promoting the licensing objectives of :-
 - (a) public safety and
 - (b) the prevention of crime and disorder
2. The application is made in the light of a course of events which occurred outside “Missoula” on 7th February 2018, and which culminated in the death of _____ it is important to emphasise, however, that the purpose of this application is neither to examine the cause of, nor to assign responsibility for, _____ ; death.
3. The premises licence for this outlet was granted by this committee on 24th November 2005 to the Stonegate Pub Company Limited, the premises at that time trading as the “Slug and Lettuce”.
4. During the autumn of 2016, the premises was rebranded as “Missoula”, this being another chain operated by the company.
5. From early January 2017, it became apparent that the operators were seeking to attract student custom to the premises on Wednesday nights. In this, using the services of a promotions firm, “Voodoo”, to guarantee, on behalf of “Missoula”, the supply of alcohol at discounted prices in exchange for pre-paid admission. , they proved remarkably successful.
6. This success, however, brought with it early concern from the operators of “Loveshack” about the ability of staff at “Missoula” to ensure that the number of persons attending the premises was not in excess of its permitted capacity.
7. As a result of this concern, the police convened a meeting on 6th February 2017 with _____ , the designated premises supervisor, and with _____ , this being a firm to which the operators had delegated responsibility for the management of the queues of students awaiting entry.
8. Mr _____ expressed the view that some of the complaints had been prompted by “sour grapes” on the part of other premises who

were losing business to "Missoula" on Wednesday nights; he did, however, concede that the venue was not ready for the arrival of students in huge numbers.

9. Mr [redacted] explained that on Wednesdays there was one entrance open, with two queues (for pre-paid admission and those seeking admission without prior payment), and that staff were ensuring by means of clickers in and out that the capacity of the premises was not exceeded.
10. [redacted], for their part, assured officers that they would be strengthening their door-staff and would be placing them under the supervision of a head doorman with substantial experience.
11. For the sake of completeness, it should be added that, whilst it is for each licensed premises to put in place within their curtilage such arrangements for security as they think fit, the owners of the entire Walkergate site themselves engage security staff who, as it happens, are also employed by [redacted].
12. Between 7th February 2017 and 7th February 2018, no further causes for concern about "Missoula" with regard to queue-management were observed by, or notified to, officers. The sole entry of relevance on police records during this 12-month period relates to Wednesday 4th October 2017, when it was noted that, with regard to the student night which was then-ongoing, the queue at the bottom door was large, but "seemed to move OK".
13. For the reasons expressed at the outset, the Constabulary will not enter, by way of this application, upon a detailed analysis of the events of 7th February, that being properly the province of other investigations.
14. The Constabulary does, however, take the view- without in any sense according blame for that which happened that night-that it would be sensible for the operators of "Missoula" to revise its procedures in certain respects, with a view to minimising the risks to safety which can arise when there is a sudden and significant increase of customers awaiting entry to the premises.
15. It is apparent to the Constabulary that these risks are especially evident on Wednesday nights, when significant numbers of students are attracted to, and congregate outside, the premises.

16. The Constabulary have already held a number of meetings with the operators, and have been pleased to note their readiness to consider and review every aspect of their management of the premises.

17. The principal areas to which the Constabulary would seek to direct the attention of the operators are that:

- (a) the premises shall be run without resort to promoters
- (b) in the event of incidents which escalate in gravity, there will be a corresponding escalation to specified senior managers to exercise responsibility
- (c) There must be established channels of communication at all times between employees of "Missoula", representatives of security firms to whom responsibility for door-control of the premises is delegated and those who exercise responsibility for security throughout Walkergate as a whole.
- (d) There must be control of customers congregating outside the premises
- (e) The Constabulary is to be contacted immediately in the event that staff find themselves unable, or fear that they may be unable, to ensure the safety of customers congregating outside the premises.

18. The Constabulary acknowledges that the matters set out at paragraph 17 are expressed in broad terms. Its intention is to maintain dialogue with the operators during the period prior to the date of the hearing accorded to this application, with a view to securing revised detailed procedures for these premises which are consistent with the priorities which it has identified. It will circulate these to this committee for consideration prior to the review hearing.

19. The Constabulary further seeks to incorporate these procedures within the premises licence in order to best-ensure the promotion of the licensing objectives in question.

20. It is for this committee to determine the action, if any, which

should be taken in this case; this discretion of the committee endures, irrespective of any agreement which may be reached between the Constabulary and the operators as to the way forward.

aPlease provide as much information as possible to support the application (please read guidance note 3)

Have you made an application for review relating to the premises before

Please tick ✓ yes

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

If you have made representations before relating to the premises please state what they were and when you made them

Please tick ✓

yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature *Imp 878*

Date *28th March 2018*

Capacity *Delegated Authority under the Chief Constable*

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) C.H. Southey, Solicitor, Durham Constabulary, Peterlee Police Station	
Post town Peterlee	Post Code SR8 1QR
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

**APPENDIX 4 –
REPRESENTATIONS**

**APPENDIX 4 - REPRESENTATION –
COUNCILLOR FREEMAN**

Yvonne Raine

From: Cllr David Freeman
Sent: 06 April 2018 12:21
To: Yvonne Raine
Cc: Cllr Richard Ormerod
Subject: RE: Licensing Act 2003 - Premises Licence Review application - Missoula, Walkergate, Durham

Dear Yvonne

As the local ward councillor for the Walkergate area I would support the review of the premises licence for Missoula on grounds of public safety, public nuisance and crime and disorder. I think in view of the tragic death which occurred outside Missoula on 7 February it is also time that the Council reviewed all the licences within the Walkergate complex to ensure that safety is paramount.

Since the rebranding of what was previously the Slug and Lettuce to Missoula it is apparent that the operators were seeking to attract student custom mid-week, particularly on a Wednesday evening, a traditional 'student night'. This has been achieved by promotion nights where alcohol is discounted for a paid admission price.

This has inevitably led to large numbers of students attending such nights. This can lead to two issues, that the number of attendees does not exceed the capacity of the venue and what can be done to manage very large groups of people queuing to enter the premises. I would urge the Licensing Committee to immediately consider the removal of the rights of promoters to run special nights, that drinks promotions which appear to be aimed at customers drinking to excess be stopped, that security arrangements be improved, that control of customers congregating outside the premise be improved and that the venue should immediately contact the police when there is any suggestion that there is a risk to the safety of customers.

While acting on these considerations would greatly improve the licence at Missoula I would urge the Licensing Committee to further consider the situation at all venues in Walkergate focussing on the removal of the rights of promoters to run special nights, that drinks promotions which appear to be aimed at customers drinking to excess be stopped, that security arrangements be improved, that control of customers congregating outside premises be improved, that venues should immediately contact the police when there is any suggestion that there is a risk to the safety of customers, that all late night licences (beyond 11.00 pm) be reviewed and I would hope reduced in hours open and the frequency of the number of times venues can be open beyond 11.00pm.

Acting now would lead to safer venues, leading to a more desirable place for customers to visit whether to socialise or to visit the surrounding eating establishments and Gala Theatre which all suffer if Durham City is viewed as an unsafe place to visit at night. It would also lead to less disruption for my residents who increasingly suffer in woken sleep and damage to property as a result of people who are noisy and drunk making their way home after midnight.

Yours sincerely

David Freeman

Councillor David Freeman

Representing the Durham City communities of Elvet, Gilesgate, Crossgate, Sidegate, Claypath and The Sands

Telephone
Email

**APPENDIX 4 - REPRESENTATIONS -
MS ROBERTA BLACKMAN-WOODS MP**

On 29 Mar 2018, at 17:09, RIPPIN, Nicholas

wrote:

Dear Terry

I am getting in touch with you to support the recent application by Durham Constabulary to review the premises license of Missoula in Durham City Centre to address concerns relating to the prevention of crime and disorder, and public safety.

I am of course pleased to hear that this request has been made. As the council will be aware, both I and others have raised many concerns about public safety and the proliferation of late licenses in the city for many years, including at a number of specific meetings to discuss these issues with the licensing committee, but unfortunately no such review has been undertaken to date.

It is also a matter of concern that a significant amount of information regarding the current licence is very difficult to access, and there is very little detail on this premises available from the council. In fact, I made a request to Durham Constabulary who were able to provide information the date the premises licence was granted, the licensed hours for the premises, and the number of Temporary Events Notices applied for by Missoula.

Furthermore, as this bar also operates as a nightclub with licensed hours until 2am, there appears to be no available information about any conditions that were placed on the licence in relation to crowd management and safety. I would be grateful if you could inform me of any such conditions on this licence, and the policies operated by the establishment to ensure that queues and crowds are safely managed. This is particularly pressing given that Missoula applied for five Temporary Events Notices (TENS) in 2017, which potentially extended the licensed hours past 2am. Sadly, the information about what these TENS entailed also does not seem to be readily available.

Should any review be granted, it is important that it is extended beyond looking into the Missoula premises, and that this is not dealt with as an isolated case. I have on a number of occasions pointed out the inadequacy of a blanket licensing policy for the whole of County Durham to the local authority. As there is a significant number of establishments with late licences in such a tight geographical area, it is clear that a bespoke policy for the city centre is needed.

I hope that Durham County Council will commit to working with the police and other stakeholders to carry out a full review of its licensing policy, paying particular attention to the number of late licences within the city, and the issue of public safety including the accessibility of the locations of drinking establishments, and crowd management.

Kind Regards

Roberta

Sent from the inbox of

Nick Rippin

Caseworker

Office of Roberta Blackman-Woods

MP for the City of Durham

Shadow Minister for Planning

Tel:

ROBERTA BLACKMAN-WOODS MP
(CITY OF DURHAM)

www.roberta.org.uk mail@roberta.org.uk

House of Commons, London, SW1A 0AA
The Miners' Hall, Redhills, Flass Street, Durham, DH1 4BD
Tel 0191 374 1915 Fax 0191 374 1916



Joanne Waller
Head of Environment, Health and Consumer Protection
Durham County Council
County Hall
Durham
DH1 5UZ

Our Ref: D/NR

21 March 2018

Dear Joanne

RE: Application to review the premises licence of Missoula, Walkergate, Durham.

I am writing to you in support of the recent request by Durham Constabulary for a review of the premises licence of Missoula in Durham City Centre. As the licensing committee will be aware, since 2007 I have consistently raised a number of issues around public safety in relation to licences granted for the sale of alcohol in Durham, and have for many years requested a review of Durham County Council's licensing policy, particularly as it pertains to the city centre.

There are serious safety issues that must be addressed with the use of this venue as a nightclub, with alcohol sales allowed until 2am, and this is sadly symptomatic of the problems with the 'one size fits all' approach to licensing that the local authority has adopted in County Durham.

The issues that I and many others have raised include the proliferation of late licences in such a compact city centre; the topography of Durham and the unsuitability of the Walkergate complex for a significant number of establishments with a late licence; the amount of anti-social behaviour relating to licensed premises, and the unsuitability of the Walkergate complex for such a concentration of licensed premises.

The issue of transportation from the Walkergate complex was also raised by myself and residents, as due to the concentration of licensed establishments in the area, a significant number of people leave the Walkergate complex at the same time, which could potentially impact on public safety, and increase the potential for anti-social behaviour and crime.

Although Durham County Council has indicated that a review of the licensing policy will take place in 2019, given the consistency with which myself and others have raised issues with the current licensing arrangement, and the events which prompted this request for a review, I believe it is important that the local authority reassess the licensing policy as soon as possible.

In addition to these matters, I am very concerned that almost no information about this licence is in the public domain, and I found it very difficult to access any details about this. Indeed, I contacted Durham Constabulary who kindly provided me with details of the licensed hours of this establishment.

It is of particular concern that this licence does not appear to have any specific conditions relating to the operation of this premises attached, and indeed, my correspondence with the police indicated that the licensed hours simply reflect those of other bars in the immediate vicinity.

Given the issues listed above, and paragraph 8.1 in Durham County Council's Licensing Act 2003 Statement of Licensing Policy 2014-2019, which states that premises should be "*constructed or adapted and operated to safeguard occupants*", I am unsure why conditions relating to public safety and the prevention of crime and disorder would not be attached to this licence, and I would be grateful if the committee could indicate why this is not the case.

Paragraph 6.2 of the Licensing Act 2003 Statement of Licensing Policy states that "*the four Objectives will...be of paramount consideration at all times.*" In relation to this particular establishment, it seems apparent that this establishment failed to consider the two objectives cited by Durham Police. I believe it is also clear that, in granting so many late licences within the city, failing to address the issues raised by myself and others, and the lack of action on a bespoke policy for Durham City, the local authority has not paid enough attention to these objectives either.

It is vitally important therefore, that the licensing objectives are at the forefront of any decision that is taken in relation to the licence at Missoula. It is also critical that the wider issue of licensing and public safety in the city is considered by the local authority, and that a full review of the licensing policy is carried out as a matter of urgency.

Yours sincerely

Roberta Blackman-Woods MP
City of Durham

**APPENDIX 4 – REPRESENTATION –
ST NICHOLAS' COMMUNITY FORUM**

Honorary Secretary: Janet George,

Email:

22 April 2018

Yvonne Raine
Senior Licensing Officer
Environment, Health & Consumer Protection
Adult and Health Services
Durham County Council
Annand House
Meadowfield
Durham
DH7 8RS

Dear Ms Raine

Application for the Review of a Premises Licence
Applicant – Mr M Barton, The Chief Constable of Durham
Premises – Missoula, Unit 7, Freemans Place, Walkergate, Durham. DH1 1SQ
Date of Application – 28th March 2018
Last date for representations – 25th April 2018

I am writing on behalf of the St Nicholas Community Forum (SNCF), a voluntary grouping of residents of the St Nicholas Ward of Durham City.

I should explain that the Objects of SNCF are essentially to promote community awareness and quality of life in our area. The Forum has a formal constitution and elects its officers at an Annual General Meeting.

At our monthly meeting held on 10 April 2018, we discussed the above application and wish to offer the following comments.

The 'evening economy' that is manifested in Walkergate has given rise to serious problems – ranging from the "Wild West" characterisation by Durham Police to large and intimidating groups of men and of women shouting and screaming on Saturday afternoons and evenings to fights outside the takeaways and most recently to the tragic death of a Durham University student. The Police and the County Council are to be congratulated for their co-ordinated efforts to bring the takeaways' permitted hours back from 2.30 am to before midnight and to deal with the taxi problems arising from people emerging very noisily from the drinking establishments in Walkergate through Millennium Place onto Claypath in the early hours.

It is, to say the least, ironic that the herds of intoxicated adults range across Millennium Place, the supposedly 'Cultural Quarter'. We consider that Millennium Place and Walkergate should be family-friendly places and tourist-friendly places, civilised places where families and visitors can have a pleasant evening.

In the particular current case of the Chief Constable's request for a review of the Premises Licence of Missoula (to address concerns relating to the Prevention of Crime and Disorder and Public Safety), we are fully supportive of the Chief Constable's request and consider that any revised or new Premises Licence should not only address the management and procedural issues that relate to the tragic incident but also should significantly reduce the hours permitting alcohol consumption.

SNCF also ask that this review is considered against the whole situation in Walkergate and indeed that the Licensing Committee reviews all licenses in the Walkergate area. We would suggest greater support is given to monitoring and policing of the area including the use of CCTV until the area returns to a more civilised state.

We trust that the Licensing Committee will take our observations into account.

Yours sincerely

Janet George
Secretary, St Nicholas Community Forum

**APPENDIX 5 -
STATEMENT OF LICENSING POLICY**

7.0 The Prevention of Crime and Disorder

7.1 Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment may sometimes, if not properly managed, become a source of public nuisance, generating crime and disorder problems.

7.2 As a matter of policy, the Licensing Authority will require every holder of a premises licence, club premises certificate or temporary event notice to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the immediate vicinity of their premises, including for example on the pavement, in a beer garden or in a smoking shelter.

7.3 The Licensing Authority recommends that all applicants demonstrate in their Operating Schedules that suitable and sufficient measures, ranging from the design and layout of the premises through to the daily operation of the business have been identified and will be implemented and maintained with the intention of preventing crime and disorder. Procedures to deal with drunken customers, violence and anti social behaviour in and outside premises and the provision of closed circuit 14 television in certain premises should be considered by applicants, licensees and event organisers when addressing this issue.

7.4 The Licensing Authority encourages Personal Licence holders to actively participate in established "Pubwatch" schemes, where issues relating to crime and disorder can be addressed. The Licensing Authority support involvement in "Best Bar None" initiative which enables premises to demonstrate good safe operating procedures. Such schemes have been very successful in reducing the negative impact of alcohol across a range of circumstances.

7.5 The Licensing Authority recognises and promotes effective and responsible management of all licensed and authorised premises through competent and efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice, such as 'Challenge 25'. These are considered to be among the most important control measures for the achievement of all Licensing Objectives. The Licensing Authority will take a positive view of anyone who invests in appropriate training, and in particular nationally accredited qualifications tailored to the Licensing sector. Training records should be kept available for inspection by all enforcement agencies.

7.6 The application for premises licence must identify a Designated Premises Supervisor (DPS) who must also hold a Personal Licence. The DPS does not have to be present on the premises at all times when alcohol is being sold. However, the DPS and Premises Licence Holder remain responsible for the premises at all times. It is important that there is an accountable, responsible person present when alcohol is being sold or supplied to ensure, for example, that alcohol is not sold to persons who have had too much to drink, or to those under the age of 18 years.

7.7 Someone should always be present on premises or at an event during times when licensable activities are taking place who can discuss any problems or issues arising from the licensable activities offered on the premises with officers from Licensing Authority and Police. The Licensing Authority considers it to be good

practice if the DPS or Premises Licence Holder is present in the licensed area of the premises:

- Between 22:00 hours and closing time, when the premises is one that regularly opens after midnight for both regulated entertainment and the sale or supply of alcohol for consumption on the premises.
- At all times when the premises is a "vertical drinking establishment" where little or no seating is provided.
- At times where there is a substantial increase in customers i.e. for televised major sporting events etc.

7.8 The Licensing Authority will only impose a maximum number of people that can attend premises or an event where there is a clear and justifiable need in respect of that particular premises or event. Any such decision will be based on the nature and style of the operation. The Licensing Authority will consider information provided by the applicant and any other body, in particular the Council's Building Control Section, Environmental Health Section and the Durham and Darlington Fire and Rescue Service before setting a maximum number. Applicants will be expected to detail the arrangements that would be put in place e.g. provision of door staff to ensure that the permitted number of people attending the premises or event will not be exceeded.

7.9 Whenever security operatives/door supervisors are employed at licensed premises to carry out security functions they must be licensed by the Security Industry Authority (SIA). If a licensee directly employs security operatives they will need to be licensed by the SIA as a supervisor/manager.

7.10 The numbers of licensed door supervisors, both male and female, required at any premises will be dependent upon the nature of the activities licensed and the characteristics and capacity of the establishment and hours of trading.

7.11 In addition to the requirement of the Licensing Authority to promote the Licensing Objectives, the Council also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can do to prevent crime and disorder in its area and to consider crime and disorder in its decision making process.

7.12 Toughened/Safety Glass Policy: Licensed venues that provide the sale or supply of alcohol for consumption on the premises should consider the introduction of toughened/safety glass. This policy expectation applies to those premises that would be considered as carrying a higher risk for potential crime and disorder. In particular it is expected in premises considered to be high volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues (but not premises in those areas that are viewed as low risk in this context).

7.13 Drugs/Knives/Weapons: The Licensing Authority will expect licensees to take all reasonable steps to prevent the presence of drugs on licensed premises and to take appropriate steps to prevent drugs changing hands within the premises in order to prevent tragedies as a result of drug misuse. The Licensing Authority will expect licensees to be familiar with the Home Office Drug Strategy booklet entitled Safer

Clubbing (ISBN 1840827807) or other subsequent editions. The Licensing Authority also expects that licence holders will also take steps to prevent the presence of knives and other weapons on their premises and that a log be kept of all drug, knife and weapon incidents. Licence holders should also consider arranging training for their staff on drugs, knives and weapons and to have policies for dealing with the possession of drugs, knives and weapons and the supply of drugs.

8.0 Public Safety

8.1 The Act covers a wide range of premises that require Licensing. Each of these types of premises presents a mixture of risks, with many common to most premises, and others unique to specific operations. It is essential that applicants acknowledge these risks and that premises are constructed or adapted and operated to safeguard occupants.

8.2 Applicants are advised to seek advice on such matters from the Council's Occupational Safety and Health team, Health and safety Executive, Durham Constabulary and the Durham and Darlington Fire and Rescue Service, and incorporate any recommendations in their Operating Schedule before submitting their applications.

- First Aid
- Public security
- Event control
- Polycarbonate Glass
- Fire Safety
- Electrical safety
- Building safety
- Transport
- Drink driving issues
- Occupancy levels

22.0 Reviews

22.1 The Licensing Act provides a mechanism for reviewing premises licences and Club Premises Certificates where problems associated with premises undermine the licensing objectives following grant or variation.

22.2 At any stage during the life of a premises licence or a club premises certificate, an application for a review can be made to the Licensing Authority by any responsible authority, elected Member or any other person. However, where an application for a review is considered to be frivolous vexatious or repetitious or where an application for a review is considered not relevant to the licensing objectives the Licensing Authority will reject it.

22.3 The proceedings set out in the Act for reviewing premises licences and club premises certificates represent a key protection for the community. Unless an application is withdrawn, deemed to be frivolous, vexatious or repetitious or does not relate to the licensing objectives, the Licensing Authority will hold a hearing and take any necessary steps to promote the licensing objectives, such as modification of conditions, exclusion of licensable activities, removal of the designated premises supervisor, suspension of the licence/certificate for up to 3 months or the revocation of the licence/certificate.

22.4 Local residents can request that their licensing authority review a premises licence where activities at licensed premises are undermining one or more of the licensing objectives.

22.5 It is always worth considering other options before requesting a review of a licence, including:

- Talking to those who manage the premises to let them know about the problem and give them the opportunity to address the issues,
- Asking the licensing department at your council to talk to those who manage the premises on your behalf, or
- Talking to the relevant "responsible authority" (e.g. local authority exercising environmental health functions in relation to noise nuisance, or the police in relation to crime and disorder) about the problem.

22.6 If a request for a review of the premises licence is made by e.g. a local resident, they are required to notify the holder of the premises licence or club premises certificate and the "responsible authorities", by sending them a copy of the request, together with any accompanying documents, on the same day as the request is given to the licensing authority. The licensing authority will advertise the review to enable others (responsible authorities or other persons) to comment on it. Responsible authorities have the option, if they wish, to comment on any application for a review.

22.7 A licensing authority must act on requests for review unless they consider the request to be irrelevant, repetitive, frivolous or vexatious. Frivolous representations would concern minor issues which the licensing authority could not reasonably be required to take any action to remedy. Representations may be considered vexatious if they appear to be intended to cause aggravation or annoyance without reasonable cause.

22.8 The licensing authority will advertise the fact that a request for review of the licence has been received, and allow a period of 28 days for other persons to make representations to it (such representations can be for or against the activities at the premises in question).

22.9 After the period for making representations has expired, the licensing authority will hold a hearing to consider the request unless the request for review has been withdrawn. The request will in most cases be considered by the licensing sub-committee who will hear representations from all parties involved.

22.10 The licensing authority will invite you to attend the hearing and give the applicant for the review the opportunity to address the licensing sub-committee in

support of the request for review. They must then give the authority at least 5 working days' notice (prior to the start of the hearing), advising:

- If they will attend the hearing in person,
- Whether they will be represented by someone else (e.g. councillor / MP / lawyer / residents' association representative / friend),
- If they think that a hearing is unnecessary (if, for example, the parties have come to an agreement before the formal hearing), or
- They may also request permission for another person to attend the hearing, and must advise the licensing authority how that person may be able to assist the authority in relation to the request for review

22.11 Once the sub-committee has listened to and considered all views and evidence, it must decide what (if any) action is appropriate to promote the licensing objectives. Actions can include:

- No action,
- Modifying the conditions of the licence (change, add or remove conditions – Including operating hours),
- Excluding a licensable activity from the licence,
- Removing the designated premises supervisor,
- Suspend the licence for a period (not exceeding 3 months), and
- Revoke the licence.

22.12 The Licensing Authority will not expect a premises licence to be reviewed more than once within any 12 month period on similar grounds, except in exceptional circumstances or where it arises following a Closure Order.

22.13 Appeals against the decisions of the Licensing Authority - There is a right of appeal for all parties concerned with the request for review (i.e. the applicant for the review, the premises licence holder or any other person who made relevant representations in relation to the application). This means that they can appeal to the magistrates' court if they are not happy with the decision of the licensing authority.

22.14 If there is an appeal against a licensing authority's decision, and you are unsuccessful, the magistrates' court can award costs against the appellant if it sees fit. This would mean that they would have to pay other parties' legal costs as well as your own. However, the Magistrates' Association and the Justices' Clerks Society has advised that awarding costs for a licensing appeal should be an **exception** and not a rule, and any resident with reasonable grounds for appeal should not be penalised.

22.15 If the licence holder appeals against the licensing authority's decision, the appeal will be heard by the magistrates' court. The licensing authority will be the respondent to the appeal and may call the person who brought the review (and any other person or responsible authority) as a witness in support of its case. The decision of the licensing authority in relation to the review will be suspended until the appeal is determined.

22.16 An application to appeal the decision must be made within 21 days of the notice of decision.

22.17 In hearing an appeal against the Licensing Authority's decision, the court will have regard to this policy and the guidance issued under Section 182 of the Licensing Act 2003. However, the court would be entitled to depart from both of these documents if it considers it justified so to do.

22.18 In respect of personal licences, appeals must be made to the Magistrates' Court in the area where the licence was issued. Appeals in relation to all other authorisations must be made to the Magistrates' Court where the premises or event is situated.

**APPENDIX 6 –
SECTION 182 GUIDANCE**

Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.
- 2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to

work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

Public safety

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
 - Ensuring appropriate access for emergency services such as ambulances;
 - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
 - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
 - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
 - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
 - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
 - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

Ensuring safe departure of those using the premises

- 2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and

- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

Maintenance and repair

- 2.11 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

Safe capacities

- 2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

¹ S 177 of the 2003 Act now only applies to performances of dance.

Reviews

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises

licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

¹⁰ See chapter 15 in relation to the licensing of live and recorded music.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;

- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Review of a premises licence following closure order

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

Review of a premises licence following persistent sales of alcohol to children

11.30 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.